
UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

OTHEANER MURPHY,

Plaintiff,

versus

JOSEPH SMITH, *et al.*,

Defendants.

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CIVIL ACTION NO. 1:06-CV-269

**MEMORANDUM ORDER ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff Otheaner Murphy, an inmate confined within the Texas Department of Justice, Correctional Institutions Division, proceeding *pro se*, filed this lawsuit against Joseph Smith, Tim Lester and Wesley Freeman. The court previously referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court.

Plaintiff has filed a motion asking that his claim against defendant Smith be voluntarily dismissed. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge recommending the motion be granted.

The court has received the Report and Recommendation, along with the record, pleadings, and all available evidence. No objections were filed to the Report and Recommendation.

ORDER

Accordingly, the findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. Plaintiff's motion to dismiss is

GRANTED. The claim against Joseph Smith is **DISMISSED** without prejudice pursuant to Federal Rule of Civil Procedure 41(a).

SIGNED at Beaumont, Texas, this 3rd day of February, 2014.

A handwritten signature in black ink, reading "Marcia A. Crone". The signature is written in a cursive style with a large, stylized "M" and "C".

MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE